

and bears an arrow or other indicator pointing toward or directing the purchaser's attention to the display panel on the package where the full labeling statement appears, or

(ii) In the case of a balloon subject to §1500.19(b)(2) or a toy or game containing such a balloon, the principal display panel bears the statement:



WARNING--CHOKING HAZARD

and bears an arrow or other indicator pointing toward or directing the purchaser's attention to the display panel on the package where the full labeling statement appears.

(g) *Alternative for products manufactured outside the United States.* In the case of a product subject to the labeling requirements of §1500.19(b) which is manufactured outside the United States and is shipped directly from the manufacturer to the consumer by United States mail or other delivery service in an immediate package that contains descriptive material, the descriptive material inside the immediate package of the product need not bear the required labeling statement only if the shipping container of the product contains other accompanying material that bears the required statements displayed in a prominent and conspicuous manner. Products shipped from abroad to a U.S. affiliate for shipment to consumers are included within the scope of this exception.

(h) *Preemption.* Section 101(e) of the Child Safety Protection Act of 1994 prohibits any state or political subdivision of a state from enacting or enforcing any requirement relating to cautionary labeling addressing small parts hazards or choking hazards associated with any toy, game, marble, small ball, or balloon intended or suitable for use by children unless the state or local requirement is identical to a requirement established by section 24 of the FHSA or by 16 CFR 1500.19. Section 101(e) allows a state or political subdivision of a state to enforce a non-identical requirement relating to cautionary labeling warning of small parts hazards or choking hazards associated with any toy subject to the provisions of section 24 of FHSA until January 1,

1995, if the non-identical requirement was in effect on October 2, 1993.

[60 FR 10752, Feb. 27, 1995, as amended at 60 FR 41802, Aug. 14, 1995]

§ 1500.20 Labeling requirement for advertising toys and games.

(a) *Scope.* This section applies to catalogue and other printed material advertisements which provide a direct means of purchase or order of products requiring cautionary labeling under sections 24(a) and (b) of the FHSA.

(b) *Effective Date.* Under the Consumer Product Safety Improvement Act of 2008, Public Law 110-314, 122 Stat. 3016 (August 14, 2008), ("CPSIA"), the effective date of the CPSIA's amendment to Section 24 of the FHSA to require cautionary statements in catalogues and other printed materials is February 10, 2009. By this rule, the Commission is providing a grace period of 180 days, or until August 9, 2009, during which catalogues and other printed materials printed prior to February 10, 2009, may be distributed without such cautionary statements. Catalogues and other printed materials that are printed on or after February 10, 2009, must have the required cautionary statements. All catalogues and other printed materials distributed on or after August 9, 2009, must comply with this rule. This rule addresses only catalogues and other printed materials; however, the CPSIA extends the requirements for cautionary statements to Internet advertisements as well. Internet advertisements must comply with Section 24 of the FHSA as amended by the CPSIA no later than December 12, 2008.

§ 1500.20

16 CFR Ch. II (1–14 Edition)

(c) *Definitions.* For the purposes of this section, the following definitions shall apply.

(1) *Ball* means a spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced. The term “ball” includes any spherical, ovoid, or ellipsoidal object that is attached to a toy or article by means of a string, elastic cord, or similar tether. The term “ball” also includes a multi-sided object formed by connecting planes into a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball, and any novelty item of a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball. The term “ball” does not include dice, or balls permanently enclosed inside pinball machines, mazes, or similar other containers. A ball is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the outer container.

(2) *Small ball* means a ball that, under the influence of its own weight, passes in any orientation, entirely through a circular hole with a diameter of 1.75 inches (44.4 mm) in a rigid template $\frac{1}{4}$ inches (6 mm) thick. In testing to evaluate compliance with this regulation, the diameter of opening in the Commission’s test template shall be no greater than 1.75 inches (44.4 mm).

(3) *Latex balloon* means a toy or decorative item consisting of a latex bag that is designed to be inflated by air or gas. The term does not include inflatable children’s toys that are used in aquatic activities such as rafts, water wings, swim rings, or other similar items.

(4) *Marble* means a ball made of hard material, such as glass, agate, marble, or plastic, that is used in various chil-

dren’s games, generally as a playing piece or marker. The term “marble” does not include a marble permanently enclosed in a toy or game. A marble is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the toy or game.

(5) *Small part* means any object which, when tested in accordance with the procedures contained in 16 CFR 1501.4(a) and 1501.4(b)(1), fits entirely within the cylinder shown in Figure 1 appended to 16 CFR part 1501. The use and abuse testing provisions of 16 CFR 1500.51 through 1500.53 and 1501.4(b)(2) do not apply to this definition.

(6) *Direct means of purchase or order* means any method of purchase that allows the purchaser to order the product without being in the physical presence of the product. Advertising that provides a direct means of purchase or order of a product would include catalogues or other printed advertising material that contain order blanks, telephone numbers or fax numbers for placing orders, and Internet Web sites that enable consumers to purchase a product online or through the use of a telephone number or fax number provided on the Internet Web site.

(d) *Advertising requirements.* Any toy or game that requires a cautionary statement about the choking hazard associated with small parts, balloons, small balls, or marbles must bear that cautionary statement in the product’s advertising if the advertising provides a direct means to purchase or order the product.

(1) The advertising for any article that is a toy or game intended for use by children who are at least three years old but less than six years of age shall bear or contain the following cautionary statement if the toy or game includes a small part:

FIGURE 1



WARNING:

**CHOKING HAZARD--Small parts
Not for children under 3 yrs.**

(2) The advertising for any latex balloon, or toy or game that contains a latex balloon, shall bear the following cautionary statement:

FIGURE 2



WARNING:

**CHOKING HAZARD--Children under 8 yrs. can
choke or suffocate on uninflated or broken balloons.
Adult supervision required.**

**Keep uninflated balloons from children.
Discard broken balloons at once.**

(3)(i) The advertising for any small ball intended for children three years of age or older shall bear the following cautionary statement:

FIGURE 3



WARNING:

**CHOKING HAZARD--This toy is a small ball.
Not for children under 3 yrs.**

(ii) The advertising for any toy or game intended for children who are at least three years old but less than eight years of age that contains a small ball shall bear the following cautionary statement:

FIGURE 4



WARNING:

**CHOKING HAZARD--Toy contains a small ball.
Not for children under 3 yrs.**

(4)(i) The advertising for any marble or older shall bear the following cautionary statement:

FIGURE 5



WARNING:

**CHOKING HAZARD--This toy is a marble.
Not for children under 3 yrs.**

(ii) The advertising for any toy or game intended for children who are at least three years old but less than eight years of age that contains a marble shall bear the following cautionary statement:

FIGURE 6



WARNING:

**CHOKING HAZARD--Toy contains a marble.
Not for children under 3 yrs.**

(e) *Abbreviated warnings for catalogues and other printed materials.* Abbreviated versions of the required cautionary statements are permitted in each individual product advertisement, provided that the corresponding full cautionary statements appear in the catalogue and a statement referring to the precise location of the full cautionary statements—such as the page number on which the cautionary statements can be found—is located at the bottom of each catalogue page that contains one or more abbreviated cautionary statements. If abbreviated cautionary statements are used:

(1) The full cautionary statements associated with the abbreviated cautionary statements shall appear:

(i) Near the beginning of the catalogue, before any catalogue pages that contain advertisements of products available for purchase, or

(ii) Adjacent to the ordering information or order form in the catalogue.

(2) The full cautionary statements shall be in conspicuous and legible type in contrast by typography, layout or color.

(3) The full cautionary statements shall be clearly numbered according to the following scheme:

Required cautionary statement	Number
16 CFR 1500.19(b)(1) ¹	1
16 CFR 1500.19(b)(2) ²	2
16 CFR 1500.19(b)(3)(i) ³	3
16 CFR 1500.19(b)(3)(ii) ⁴	4
16 CFR 1500.19(b)(4)(i) ⁵	5
16 CFR 1500.19(b)(4)(ii) ⁶	6

¹ See figure 1.

² See Figure 2.

³ See Figure 3.

⁴ See Figure 4.

⁵ See Figure 5.

⁶ See Figure 6.

(4) The abbreviated cautionary statements shall consist of items 1500.20(e)(3)(i) through 1500.20(e)(3)(iv):

(i) A safety alert symbol substantially similar to that shown in figure 7.

FIGURE 7



(ii) The phrase, “CHOKING HAZARD,” written in capital letters.

(iii) Numbers, separated by commas and enclosed within a single set of parentheses, that identify the applicable cautionary statements for the product

being advertised, followed by a period. These numbers shall match the numbers used to identify each full cautionary statement, as specified in 1500.20(e)(2).

§ 1500.40

(iv) A single prohibited age range written as either “Not for under 3 yrs” or “Not for under 8 yrs,” based on the most restrictive age range for all required cautionary statements for that product. Thus, if an advertised product requires the cautionary statement specified in 16 CFR 1500.19(b)(2), the prohibited age range in the abbreviated

16 CFR Ch. II (1–1–14 Edition)

cautionary statement shall be “Not for under 8 yrs.”

(v) For example, see Figure 8 for the abbreviated cautionary statement for an advertisement of a product that requires the cautionary statements specified in 16 CFR 1500.19(b)(1) and 16 CFR 1500.19(b)(2).

FIGURE 8

▲ CHOKING HAZARD (1,2). Not for under 8 yrs.

(f) *Alternatives to cautionary statements for individual product advertisements in catalogues and other printed materials.* Multiple identical full or abbreviated cautionary statements may be replaced with a single full cautionary statement under the following circumstances:

(1) If all products available for purchase within a catalogue require the same cautionary statement, that cautionary statement, in full, may appear on the front cover, or equally conspicuous location, of the catalogue in lieu of repeating the cautionary statement within the catalogue, provided that it is communicated to consumers that the cautionary statement applies to all products in the catalogue.

(2) If all products on one catalogue page or on two facing catalogue pages require the same cautionary statement, that cautionary statement, in full, may appear at the top of the page or pages in lieu of repeating the cautionary statement in each product advertisement, provided that it is communicated to consumers that the cautionary statement applies to all products on the catalogue page or pages.

(g) *Prominence and conspicuousness of labeling statements.* The type size of abbreviated cautionary statements shall be reasonably related to the type size of any other printed matter in the product advertisement, and must be in conspicuous and legible type by typography, layout, or color with other

printed matter in the advertisement and separated from other graphic matter.

(h) *Business to Business Catalogue Exception.* The requirements of section 24(c) of the Federal Hazardous Substances Act, as amended by section 105 of the CPSIA, do not apply to catalogues and other printed materials distributed solely between businesses unless the recipient business is one that could be expected to be purchasing the product for the use of children (instead of for resale, e.g.). Examples of businesses that can be expected to be purchasing products for the use of children include day care centers, schools, and churches.

[73 FR 67736, Nov. 17, 2008, as amended at 73 FR 71545, Nov. 25, 2008]

§ 1500.40 Method of testing toxic substances.

Guidelines for testing the toxicity of substances, including testing that does not require animals, are presented in the CPSC’s animal testing policy set forth in 16 CFR 1500.232. A weight-of-evidence analysis, including any of the following: existing human and animal data, structure activity relationships, physicochemical properties; and chemical reactivity, or validated *in vitro* or *in silico* testing are recommended to evaluate existing information before *in vivo* tests are considered. If *in vivo* testing is conducted, a sequential testing strategy is recommended to reduce the